

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

**UNITED STATES of AMERICA, ex rel.)
JUAN N. WALTERSPIEL, M.D.,)
F.A.A.P.)**

Plaintiff/Relator,)

v.)

Cause No. 1:09-CV-01086-JMS-DML

**BAYER A.G., QUINTILES)
TRANSNATIONAL CORP., JOHN)
DOE, JOE DOE AND JANE DOE)**

Applicant.)

QUINTILES REPLY TO SHOW CAUSE ORDER ON VENUE

Defendant Quintiles Transnational Corporation (“Quintiles”), by its undersigned counsel, submits the foregoing reply to the Court's July 9, 2012 Order directing the parties to show cause why this action should not be transferred to the Northern District of Indiana.

1. This action was filed on September 1, 2009, naming Bayer A.G. and Quintiles as defendants. No venue allegations for this District or any other District are alleged against Quintiles. Under the False Claims Act, which contains its own venue provisions, an action may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by the False Claims Act occurred. 31 U.S.C. § 3732(a). Venue allegations as to Bayer A.G. only are alleged in the Northern District of Indiana.

2. On March 26, 2012, this Court required service of the named defendant by March 30, 2012. To date, Bayer A.G. has not been served in this action. On May 3, 2012, this Court issued an Order to Show Cause why Bayer A.G. should not be dismissed for failure of service. Quintiles has filed a Motion to Dismiss this action under Fed R. Civ P 9(b) and 12 (b)(6), which is pending.

3. Relator's counsel has suggested this action be transferred to the District of Columbia for the convenience of counsel, or it may be transferred to the Northern District of Indiana. Quintiles respectfully suggests this action be dismissed for lack of venue, in addition to the reasons set forth in the pending Motion to Dismiss. The Bayer A.G. allegations should not support this action against Quintiles in any District where there is a complete failure to serve Bayer A.G. in contravention of the Court's Order, and no venue allegations of any kind related to Quintiles are asserted.

4. Quintiles opposes the District of Columbia as venue in this action and suggests that this action remain in this District for resolution of the pending Order to Show Cause on service and the Motion to Dismiss. The complaint in this action is facially defective and asserts a legal theory not cognizable under the False Claims Act. It is more efficient to have these initial issues resolved by this Court and to have this matter proceed in this District if this action is not dismissed.

WHEREFORE, Quintiles prays that this Honorable Court:

- A. Dismiss this action against Quintiles for lack of venue; or, in the alternative,
- B. Confirm venue in this District for the pending Motion to Dismiss and related proceedings; and,
- C. Award such other and further relief as this cause may require.

Dated: July 20, 2012

/s/ Kathleen McDermott

Kathleen McDermott (*pro hac vice*)

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Counsel for Defendant

Quintiles Transnational Corporation

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing has been served on all counsel of record via the Court's CM/ECF system on the 20th day of July, 2012

/s/ Kathleen McDermott
